

AO 245B (Rev. 3/01) Sheet 1 - Judgment in a Criminal Case

United States District Court

District of Massachusetts

UNITED STATES OF AMERICA
v.
JOSE LUIS CRUZ

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 1: 04CR10149-001-RWZ

Charles P. McGinty, Esquire
Defendant's Attorney

I hereby certify that the foregoing document is a true and correct copy of the
☐ electronic docket in the captioned case
☐ electronically filed original filed
☐ original filed in my office on _____

By: John A. Thompson
Clerk, U.S. District Court
District of Massachusetts

By: [Signature]
Deputy Clerk

THE DEFENDANT:

- ☒ pleaded guilty to count(s): 1, 2, & 3
☐ pleaded nolo contendere to count(s) _____ which was accepted by the court.
☐ was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
8USC§1326	Illegal re-entry of deported alien	02/02/04	1
18USC§1542	False statements in passport application	09/03/02	2
42USC§408	False representation of social security number	09/03/02	3

☐ See continuation page

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).

☐ Count(s) _____ is dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

04/26/05

Defendant's Soc. Sec. No.: 000-00-3471

Defendant's Date of Birth: 00-00-1977

Defendant's USM No.: 25221-038

Defendant's Residence Address:
Plymouth County House of Correction
26 Long Pond Road, Plymouth

Defendant's Mailing Address:
Same as above

Date of Imposition of Judgment

Signature of Judicial Officer

The Honorable Rya W. Zobel

Name and Title of Judicial Officer

Judge, U.S. District Court

Date

May 2, 2005

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AO 245B (Rev. 3/01) Sheet 2 - Imprisonment

CASE NUMBER: 1:04CR10149-001-RWZ

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DEFENDANT: JOSE LUIS CRUZ

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 27 month(s)

The defendant shall get credit for time served on these offenses.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before _____ on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Officer.

RETURN

I have executed this judgment as follows:

Defendant delivered on 6-8-05 to WAMER

at ALF, with a certified copy of this judgment.

UNITED STATES MARSHAL

By 

Deputy U.S. Marshal

AO 245B (Rev. 3/01) Sheet 3 - Supervised Release

CASE NUMBER: 1:04CR10149-001-RWZ

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DEFENDANT: JOSE LUIS CRUZ

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **2** year(s)

☒ See continuation page

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable.)

☒ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated above).

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Continuation Page - Supervised Release/Probation

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DEFENDANT: JOSE LUIS CRUZ

Continuation of Conditions of ☒ Supervised Release ☐ Probation

If ordered deported, the defendant shall leave the United States and shall not return without prior permission of the Secretary of the Department of Homeland Security.

The defendant shall use his true name and is prohibited from the use of any aliases, false dates of birth, false social security numbers, incorrect places of birth, and any other pertinent incorrect identifying information.

AO 245B Judgment in a Criminal Case - D. Massachusetts
Statement of Reasons - Sheet 1

I hereby certify on 05/15/05 that the foregoing document is true and correct copy of the electronic docket in the captioned case electronically filed original filed on original filed in my office on

UNITED STATES DISTRICT COURT
District of Massachusetts

UNITED STATES OF AMERICA

V.

JOSE LUIS CRUZ

Case Number: 1: 04 CR 10149 - 001 - RWZ

Charles P. McGinty, Esquire

Defendant's Attorney

By: *[Signature]*
Deputy Clerk
STATEMENT OF REASONS



The court adopts the factual findings and guideline application in the presentence report.

OR



The court adopts the factual findings and guideline application in the presentence report, except (see attachment, if necessary):



See Continuation Page

Guideline Range Determined by the Court:

Total Offense Level:	<u>21</u>			
Criminal History Category:	<u>III</u>			
Imprisonment Range:	<u>46</u>	to	<u>57</u>	months
Supervised Release Range:	<u>2</u>	to	<u>3</u>	years
Fine Range:	\$ <u>\$7,500.00</u>		to \$	<u>\$75,000.00</u>

Defendant's Soc. Sec. No.: 000-00-3471

Defendant's Date of Birth: 00-00-1977

Defendant's USM No.: 25221-038

Defendant's Residence Address:

Plymouth County House of Correction
26 Long Pond Road
Plymouth, Mass. 02360

Defendant's Mailing Address:

Same

04/26/05

Date of Imposition of Judgment

Signature of Judicial Officer

The Honorable Rya W. Zobel

Judge, U.S. District Court

Name and Title of Judicial Officer

Date

May 2, 2005

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Statement of Reasons - Sheet 2

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DEFENDANT: JOSE LUIS CRUZ

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STATEMENT OF REASONS

☒ Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$ _____

☐ Discretionary restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(a)(B)(ii) (or in offenses committed before April 23, 1996, pursuant to 18 U.S.C. § 3663(d)).

☐ Restitution pursuant to the mandatory victim restitution provisions is not ordered in this title 18 property offense because the number of identifiable victims is so large as to make restitution impracticable, pursuant to 18 U.S.C. § 3663A(c)(3)(A).

☐ Restitution pursuant to the mandatory victim restitution provisions is not ordered in this title 18 property offense because determining complex issues of fact and related to the cause of amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process, pursuant to 18 U.S.C. § 3663A(c)(3)(B).

☐ For offenses committed on or after September 13, 1994 but before April 23, 1996 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.

☐ Partial restitution is ordered, pursuant to 18 U.S.C. § 3553(c), for the following reason(s):

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Statement of Reasons - Sheet 3

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STATEMENT OF REASONS

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:

OR

☒ The sentence departs from the guideline range:

☐ upon motion of the government, as a result of a defendant's substantial assistance, or

☒ for the following specific reason(s):

The criminal history calculation overrepresents the criminal conduct there reflected. The sentence imposed is based on consecutive state sentences of 1 year for the two separate offenses rather than concurrent sentences of 2 years, as well as credit for time spent in administrative detention.

☐ See Continuation Page